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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of

Advanced Television Systems
and Their Impact upon the
Existing Television Broadcast
Service

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MM Docket No. 87-268

To: The Commission

PETITION FOR RECONSIDERATION AND CLARIFICATION

Golden Link TV, Inc. ("Golden Link"), licensee of NTSC Channel 66 in Vallejo, California, KPST(TV), by its attorneys, and pursuant to 47 C.F.R. § 1.429(a) (1996), hereby petitions the FCC for reconsideration and clarification of its *Sixth Report and Order* in the above-captioned proceeding^{1/} for the reasons described herein. Golden Link wholly supports the Commission's movement toward full implementation of digital television ("DTV") and applauds the Commission's efforts to bring this new television service to the American public. Nonetheless, KPST(TV)'s assignment of a paired DTV channel precludes the station from enjoying benefits granted to other stations.

**The Commission Should Assign KPST(TV) a New Paired Channel
that Allows for Maximized Facilities**

In adopting maximum and minimum power limits, the Commission stressed that

stations should be able to maximize their facilities provided that no new interference is caused to other stations. We therefore will permit stations to request an increase in their operating power and/or height of antenna from that

^{1/} *Sixth Report and Order*, MM Docket No. 87-268, FCC 97-116 (released April 21, 1997) ("*Sixth R&O*").

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specified in the DTV Table, up to the maximum permissible limits on DTV power and antenna height set forth below or up to that needed to provide the same geographic coverage as the largest station within their market.^{2/}

Thus, the Commission envisions that stations will have the opportunity to expand coverage, subject to interference constraints. This is consistent with the Commission's goals of optimal coverage and the furtherance of free, over-the-air television service.^{3/} As the Technical Report ("Attachment A") indicates, however, KPST(TV) is precluded from the opportunity to maximize. KPST(TV) has NTSC operations on Channel 66 and was assigned a paired DTV Channel 30. The Channel 30 allotment is subject to two short spaced stations, the locations of which, as seen in Attachment A, effectively preclude KPST(TV) from maximizing its facilities. Accordingly, the Commission should reassign KPST(TV) a new DTV channel that would allow the station to maximize facilities in the same manner as other broadcasters, as was envisioned by the Commission.

KPST(TV)'s current inability to maximize is likely an undesirable artifact of the Commission's replication goals.^{4/} Analog VHF stations paired with a UHF-DTV channel received robust allotments of digital power, but analog UHF stations paired with a UHF-DTV channel receive power levels of only a small fraction. Given the commitment to a rapid DTV roll-out, the Commission should either abandon this replication artifact or provide means of mitigating the fact that UHF/UHF stations will be burdened with a disproportionate risk associated with the broadcasters' transition to DTV. Such disparity of treatment is contrary to

^{2/} *Sixth R&O* at ¶31.

^{3/} *Fifth R&O* at ¶6.

^{4/} *Sixth R&O* at ¶29.

Melody Music^{5/} and related Commission precedents requiring common treatment of similarly situated parties.

Most importantly are the locations where maximization is not possible. KPST(TV) is unable to maximize in the direction of its *community of license*. As Attachment A demonstrates, KPST(TV) is precluded from maximizing to provide coverage of Vallejo (approximately 23 degrees). Golden Link is confused by its inability to maximize in light of the fact that three stations in KPST(TV)'s market are authorized to operate at the maximum 1000 kW. Again, the Commission must recognize the disparity of its treatment of licensees.

The Commission should hesitate before concluding that this problem to KPST(TV) is temporary. First, as the Commission acknowledges, the length of the transition period will effectively depend on market penetration, equipment development and other unpredictable factors.^{6/} Second, KPST(TV)'s NTSC channel is outside of the core spectrum. Hence, KPST(TV) likely will operate permanently on its assigned DTV channel and that would produce irreparable harm to Golden Link by precluding it from maximizing its facilities while other similarly situated broadcasters enjoy the benefits of maximized facilities.

**The Commission Must Allow Stations the Opportunity
to Propose Solutions to Allotment Problems**

Golden Link understands that, in place to place, stations will have no alternative but to accept short spacing where no other allotments are available. However, though Golden Link has identified its "maximization" problem, it cannot propose a solution because the Commission has

^{5/} *Melody Music Inc. v. FCC*, 345 F.2d 730 (D.C. Cir. 1965).

^{6/} *Fifth R&O* at ¶100.

not released the information necessary for it to analyze contours of potential candidates for channel relocation.

In order to evaluate alternative solutions to its short spacing dilemma, Golden Link must be able to calculate the interference that is likely to result and determine the service areas of new DTV stations in accordance with the Commission's methodology (Longley-Rice). But the critical piece of information necessary for stations to evaluate contours—*OET Bulletin No. 69*—has not been timely released though the *R&Os* refer to it numerous times. Without *OET Bulletin No. 69*, it is impossible, for example, for stations to know precisely what operational parameters for the Longley-Rice methodology apply or what amount of interference is considered *de minimis*.^{7/}

Therefore, before the rules and the table of allotments become final—but *after* the Commission's methodology is made available—the Commission should give interested parties a further opportunity to comment on the Table and the methodology. A brief additional comment period of 90 days will not significantly delay implementation of the transition to DTV. Indeed, to the extent that there are problems with the table of allotments, the Commission can fix those problems more efficiently and expeditiously if they are identified in a further round of comments while this proceeding remains open than if they are identified in a plethora of separate petitions for rule making after the DTV Table becomes final.

^{7/} As a matter of administrative law, the Commission must, of course, set forth the basis and underlying support for its rules in a manner that is sufficiently detailed to permit judicial review. See, e.g., *National Nutritional Foods Association v. Weinberger*, 512 F.2d 688, 701 (2d. Cir. 1975), *cert. denied*, 423 U.S. 827 (1975).

CONCLUSION

The DTV Table saddles KPST(TV) with an allotment that precludes the opportunity to maximize. The Commission should attempt to rectify this problem now by assigning a channel that would allow KPST(TV) to enjoy the same benefits as other stations. The Commission should allow stations such as KPST(TV) to propose solutions by affording parties an extra 90 days to comment on the DTV table of allotments.

The success of DTV is not foreordained simply because technology permits digital transmission. Only a transition that treats all parties, including consumers, fairly and with the same limitations can ensure that DTV succeeds. The Commission should not bind itself to a table that perpetuates inequities and simply for the sake of expediency.

Respectfully submitted,

GOLDEN LINK TV, INC.

By: 

John R. Feore, Jr.

Scott S. Patrick

Its Attorneys

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Dated: June 13, 1997

ATTACHMENT A

Technical Report

**Station KPST-TV
Channels N66/D30
Vallejo, California**

**Engineering Exhibit
in Support of
Reconsideration Petition**

June 13, 1997

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HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
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TV Station KPST • Channels N66/D30 • Vallejo, California**Statement of Dane E. Ericksen, Consulting Engineer**

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by Golden Link TV Inc., licensee of Station KPST-TV, NTSC Channel 66, DTV Channel 30, Vallejo, California, to prepare an engineering exhibit in support of a Petition for Reconsideration.

Limitations on DTV Antenna Pattern

The attached Figure 1 shows the replication pattern assigned to KPST-TV using the protocols adopted in Appendix B to the Sixth Report & Order to MM Docket 87-268 ("Sixth R&O"). For KPST-TV to take advantage of the 56.3 kW of DTV effective radiated power ("ERP") assigned by the Sixth R&O, it would have to employ this replication pattern. For comparison, the KPST-TV NTSC directional antenna pattern is also shown.

Maximization Limits

The KPST-TV DTV Channel 30 has two short-spaced stations, TV Station KRCB, NTSC Channel 22, Cotati, and KDTV, DTV Channel 29, San Francisco. The attached Figure 2 shows the maximization pattern limits that would not cause any additional interference to these stations.

The attached Figures 3A, 3B, and 3C show the maximization limits for a DTV community panel antenna array proposed by Dielectric for shared use by the nine TV stations on the Sutro Tower in San Francisco. The Dielectric antenna would have to be scaled by 0.23 in order to fit within the maximization limits. This would reduce the main-beam DTV ERP from 1,000 kW to 52.9 kW, which would be 0.3 dB less power than assigned by the Sixth R&O. Although a reduced-rear narrow cardioid oriented at 90°T could be made to fit the maximization limits with a main-beam ERP of 384 kW, as shown by Figure 3C, the power radiated towards Vallejo, California, at 24°T, would be only 84 kW.

I therefore conclude that, under the maximization protocols adopted in the Sixth R&O, KPST-TV would be unlikely to ever be able to achieve parity with the 1,000 kW DTV ERP power levels assigned to the San Francisco/Oakland VHF lowband NTSC stations.

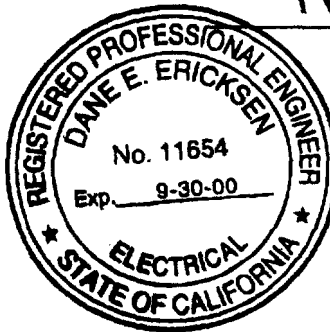


TV Station KPST • Channels N66/D30 • Vallejo, California**List of Figures**

In carrying out these engineering studies, the following attached figures were prepared under my direct supervision:

1. KPST-TV NTSC and DTV replication patterns
2. KPST-TV DTV30 maximization limits
3. Alternative directional antenna patterns vs. KPST-TV D30 maximization limits.

June 13, 1997




Dane E. Ericksen, P.E.

Affidavit

State of California

County of Sonoma

ss:

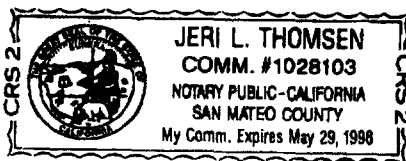
Dane E. Ericksen, being first duly sworn upon oath, deposes and says:

1. That he is a qualified Registered Professional Engineer, holds California Registration No. E-11654, which expires on September 30, 2000, and is employed by the firm of Hammett & Edison, Inc., Consulting Engineers, with offices located near the city of San Francisco, California,
2. That he graduated from California State University, Chico, in 1970, with a Bachelor of Science Degree in Electrical Engineering, was an employee of the Field Operations Bureau of the Federal Communications Commission from 1970 to 1982, with specialization in the areas of FM and television broadcast stations and cable television systems, and has been associated with the firm of Hammett & Edison, Inc., since October 1982,
3. That the firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by Golden Link TV Inc., licensee of Station KPST-TV, NTSC Channel 66, DTV Channel 30, Vallejo, California, to prepare an engineering exhibit in support of a Petition for Reconsideration,
4. That such engineering work has been carried out by him or under his direction and that the results thereof are attached hereto and form a part of this affidavit, and
5. That the foregoing statement and the report regarding the aforementioned engineering work are true and correct of his own knowledge except such statements made therein on information and belief and, as to such statements, he believes them to be true.



Dane E. Ericksen, P.E.

Subscribed and sworn to before me this 13th day of June, 1997

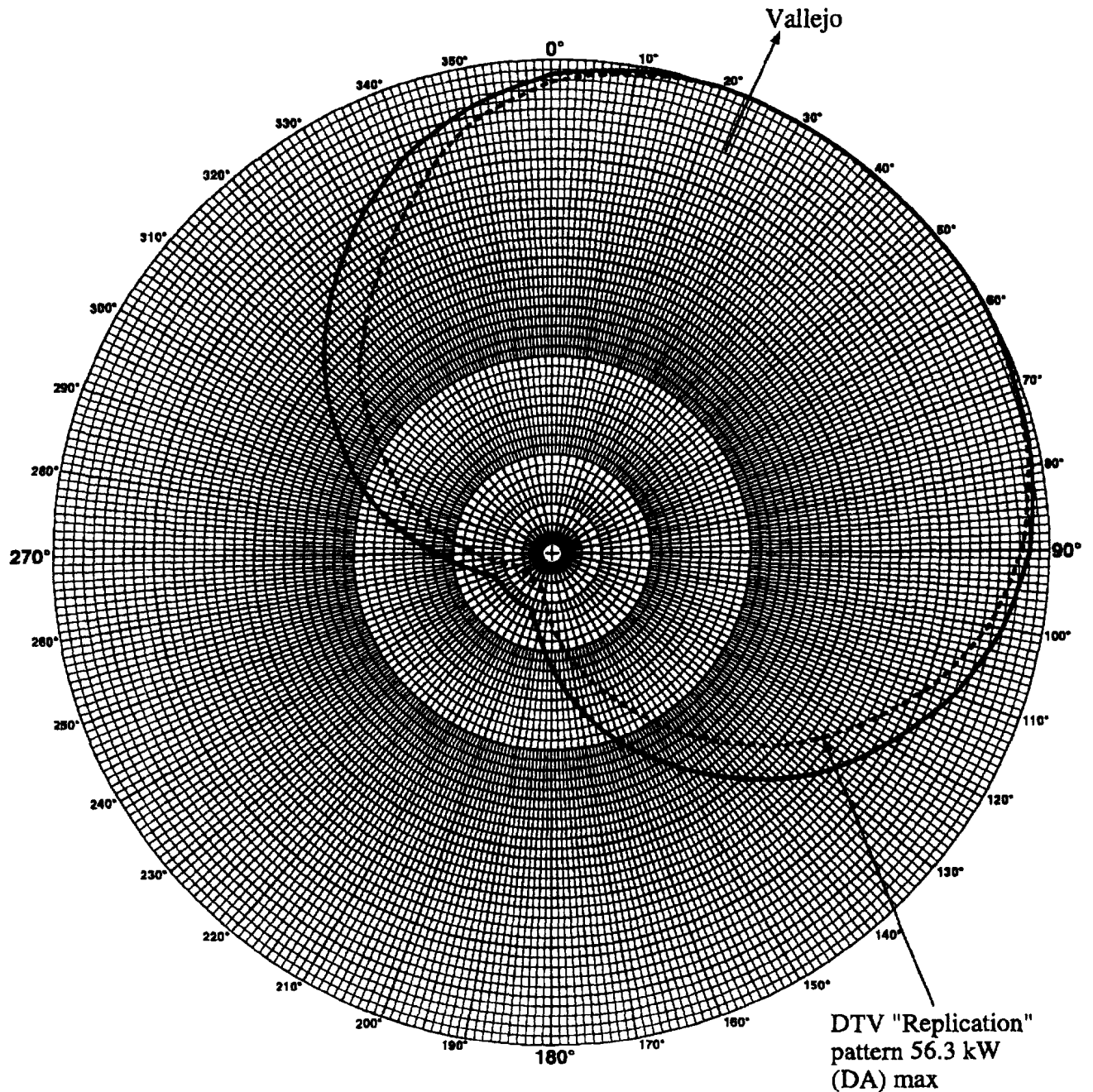


HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

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Affidavit

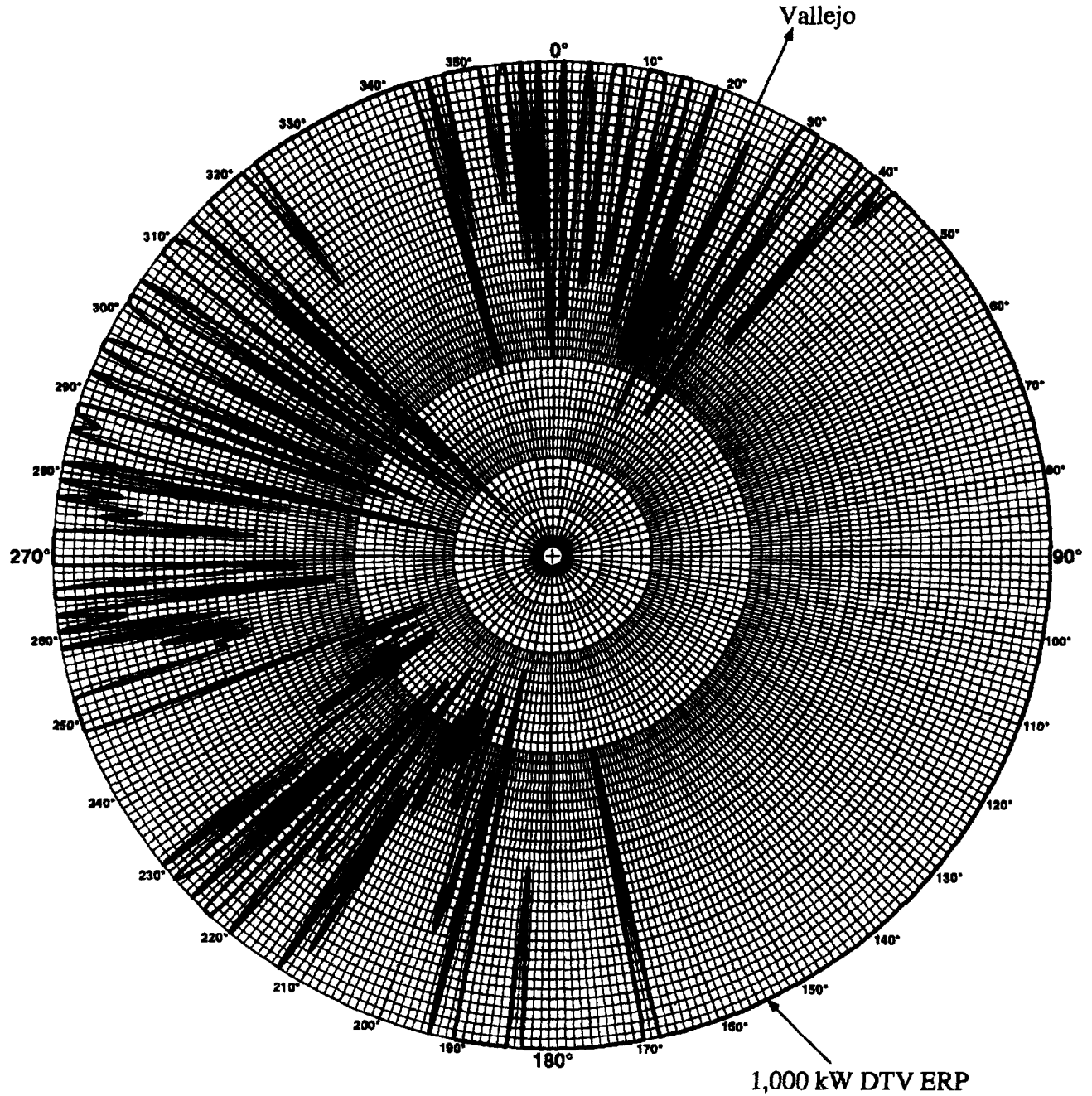
Station KPST-TV • Channels N66/D30 • Vallejo, California

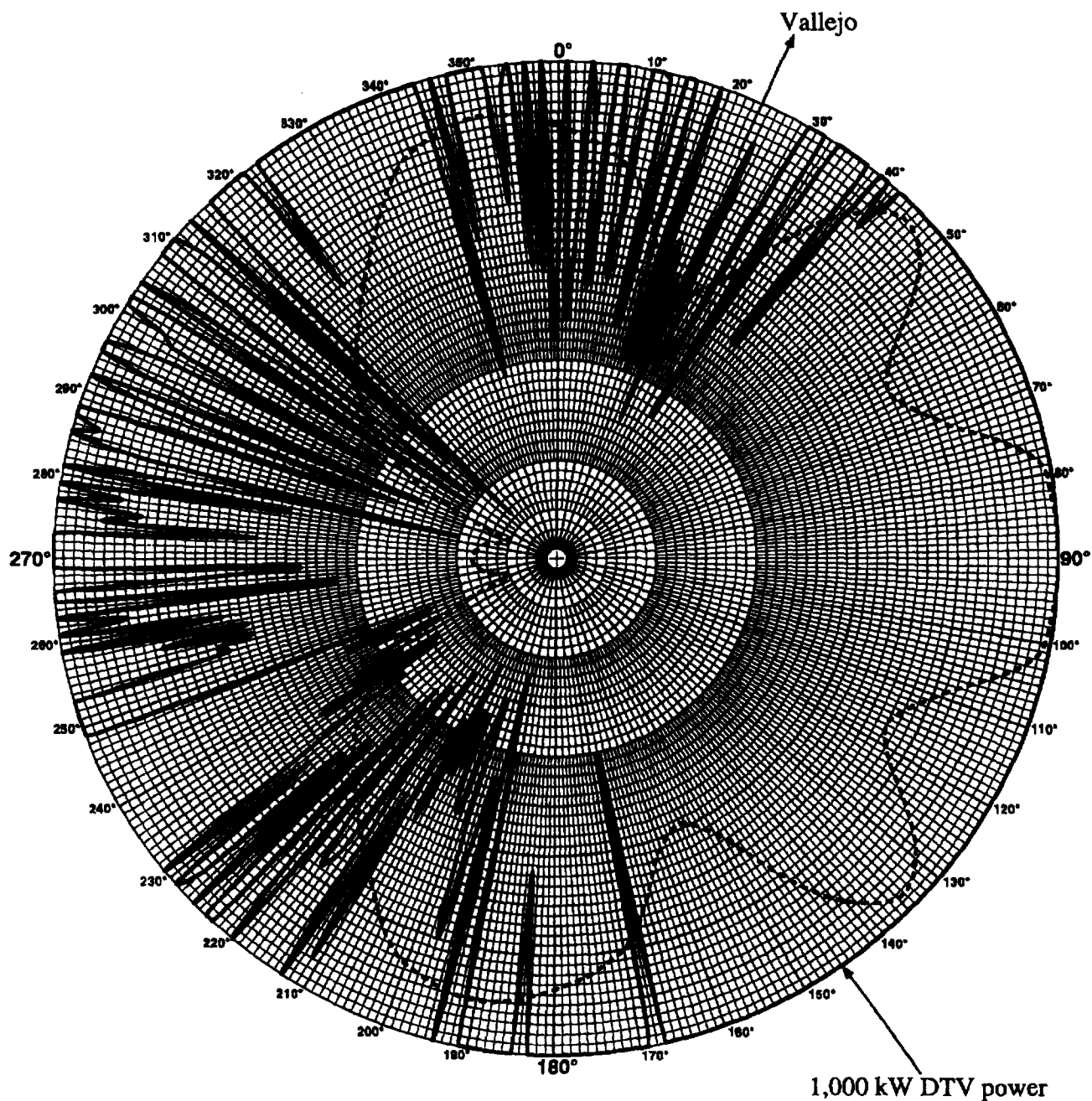
NTSC and DTV Patterns



Station KPST-TV • Channels N66/D30 • Vallejo, California

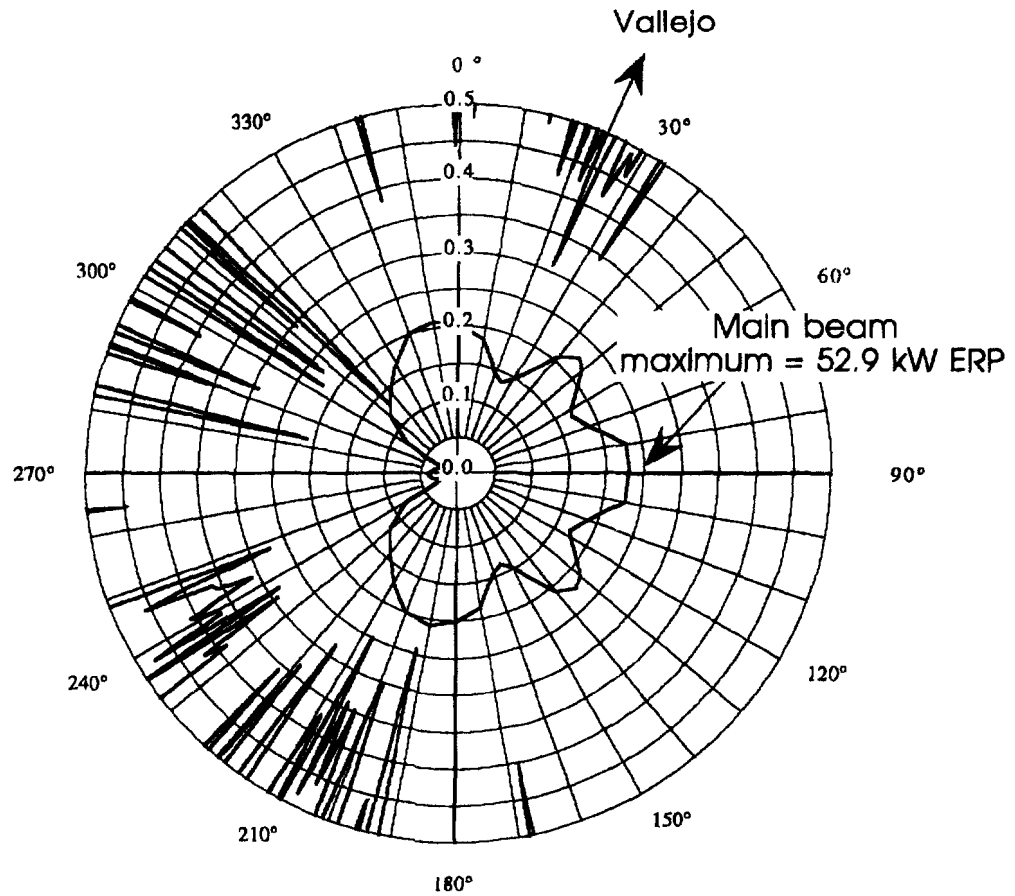
DTV Channel 30 Maximization Limits



Station KPST-TV • Channels N66/D30 • Vallejo, California**DTV Channel 30 Maximization Limits vs. Dielectric DTV Panel Antenna Pattern**

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Figure 3A

Station KPST-TV • Channels N66/D30 • Vallejo, California**D30 Maximization Limits for Dielectric DTV Panel Antenna Pattern**

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Figure 3B

Station KPST-TV • Channels N66/D30 • Vallejo, California**D30 Maximization Limits for Andrew HSNR Reduced-Rear Narrow Cardioid Pattern**